

# REMARKS

Claims 1-49 were pending. All stand rejected. Claim 1 has been amended. Claims 31-47 have been canceled. Claims 50-62 are new. Therefore, claims 1-30, and 48-62 are currently pending. The applicants request further examination and reconsideration in view of the amendments made above and the remarks set forth below.

A second Information Disclosure Statement was filed on March 30, 2004, which was approximately six weeks prior to the May 14, 2004 mailing date of the first office action. The office action mailed on May 14, 2004 does not include any indication that the examiner has considered the Information Disclosure Statement mailed on March 30, 2004. Therefore, the applicants respectfully request that the Information Disclosure Statement mailed on March 30, 2004 be considered.

## Amendments

The amendments to the specification and to claim 1 are to correct minor informalities. In particular, the sentence beginning on page 4, line 27 of the applicants' specification has been amended in the following manner:

Thus, the line 118 is substantially perpendicular to the line of sight 120 so that an angle B is approximately ninety degrees, though the angle B can be greater or less than ninety degrees.

The first part of the sentence refers to an angle B; the second part of the sentence inadvertently refers to the angle A. The sentence has been amended so that the second part of the sentence comports with the first part of the sentence. This amendment is further supported by Figure 3 and page 4, lines 19-23 of the applicants' specification. No new matter has been added.

## Rejections under 35 U.S.C. § 102:

The examiner has rejected claims 1, 2, 6-9, 13-18 under 35 U.S.C. § 102(b) as being anticipated by Harris (U.S. Patent No. 4,670,914). Applicants respectfully traverse these rejections.

Claim 1 recites eyewear comprising a frame and one or more lenses mounted to the frame. The frame has a brow web including at least one ventilation aperture having an internal side that is substantially sloped with respect to a top surface of the brow web.

Figure 3 of the applicants' specification is a side-sectional view of eyewear in accordance with an embodiment of the invention. The side-sectional view shows a cross-section of the brow web of the frame, including one aperture. The aperture is between top and bottom surfaces of the brow web. Thus, the substantially sloped internal sides of the aperture recited in claim 1 are between the top and bottom surfaces of the brow web.

Harris discloses a pair of goggles comprising a lens member and a circumambient wall member. Harris, column 3, lines 40-44. The wall member has a plurality of apertures. Harris, column 2, lines 36-37. Each aperture carries a protective cowl. Harris, column 3, lines 54-55. The cowls extend upwardly or downwardly and rearwardly. Harris, column 3, line 67 to column 4, line 10. Figure 1 of Harris shows the cowls extending out from the surface of the wall member while Figure 2 of Harris shows a cross-section of one of the cowls. As can be seen from Figure 2 of Harris, the cowl of Harris is a separate element from the wall member of Harris. Further, Figure 2 of Harris clearly shows that the internal sides of the aperture in the wall member of Harris are vertical, while sloping side walls of the cowl extend out from the wall member at an angle relative to the vertical side walls of the aperture. Therefore, the internal sides of the aperture of Harris are not sloping, while side walls of Harris that are sloping are in the cowl of Harris, which is a separate element from the aperture.

The examiner has rejected claim 1 as being anticipated by Harris. The applicants respectfully disagree. Claim 1 is distinguishable from Harris at least because claim 1 requires at least one ventilation aperture having an internal side that is substantially sloped with respect to a top surface of the brow web. In contrast, the internal sides of the aperture disclosed by Harris are vertical, whereas, the sloping side walls of Harris are not in the aperture, but instead, are in the cowl of Harris. Therefore, claim 1 is patentably distinguishable from the prior art as represented by Harris. For at least this reason claim 1 is allowable.

The examiner has rejected claim 6 as being anticipated by Harris. Claim 6 is dependent from allowable base claim 1. For at least this reason claim 6 is allowable.

Further, claim 6 recites eyewear that includes an aperture in the brow web with an internal side that forms an angle of approximately forty-five degrees with respect to a surface of the brow web.

The applicant respectfully disagrees with the examiner's assertion that the technical feature recited by claim 6 is disclosed by Harris. The examiner suggests that Harris teaches in claim 13 that an internal side forms an angle of 45 degrees. Claim 13 of Harris teaches that an angle is 45 degrees, but does not identify this angle as an internal side. Rather, claim 13 of Harris is dependent from claim 12 of Harris which does define an angle as being formed by the plane of the exterior opening of each cowl and the optical axis of the eye protector. Harris, column 6, lines 26-28. However, this angle formed by the opening of the cowl of Harris is not comparable to the angle recited in claim 6. It is important to note that claim 6 recites an angle between an internal side of an aperture and a top surface of the brow web, whereas, the angle of Harris which was identified by the examiner is between the opening of a cowl and the optical axis of the eye protector. These angles have no relation to each other since they are formed by different parts of different structures. This is another reason why claim 6 is allowable.

The examiner has rejected claim 9 as being anticipated by Harris. Claim 9 is dependent from allowable base claim 1. For at least this reason claim 9 is allowable.

Further, claim 9 recites eyewear wherein a row of apertures approximately follows the curvature of the lens. Thus, the lens of claim 9 has a curvature. The examiner has stated that claim 9 is not allowable because Harris teaches a plurality of apertures substantially in a row. However, Harris does not suggest or disclose lenses that have a curvature. Therefore, Harris cannot suggest or disclose a row of apertures that approximately follow the curvature of a lens. Thus, claim 9 is patentably distinguishable from the prior art as represented by Harris. This is another reason why claim 9 is allowable.

The examiner has rejected claim 16 as being anticipated by Harris. Claim 16 is dependent from allowable base claim 1. For at least this reason claim 16 is allowable.

Further, claim 16 recites eyewear that includes side lenses. As can be seen in Figure 1 of the applicants' specification the eyewear includes side lenses in addition to the front lenses. The examiner stated that claim 16 is not allowable because Harris teaches in Figure 1 that the frame includes a lower web which comprises a plurality of ventilation apertures. The applicants respectfully submit that the apertures of Harris are not side lenses. Thus, claim 16 is patentably distinguishable from the prior art as represented by Harris. This is another reason why claim 16 is allowable.

The examiner has rejected claims 2, 7, 8, 14, 15, 17 and 18 as being anticipated by Harris. Claims 2, 7, 8, 14, 15, 17 and 18 are dependent from allowable base claim 1. For at least this reason claims 2, 7, 8, 14, 15, 17 and 18 are allowable.

The examiner has rejected claims 31, 32, 34, 37-40, 43 and 44 under 35 U.S.C. § 102(b) as being anticipated by Hall et al. (U.S. Patent No. 5,969,787). The applicants have canceled claims 31, 32, 34, 37-40, 43 and 44.

The examiner has rejected claims 31-44 under 35 U.S.C. § 102(e) as being anticipated by Matera (U.S. Patent Application Publication No. 2004/0017540). The applicants have canceled claims 31-44.

Rejections under 35 U.S.C. § 103(a):

The examiner has rejected claims 3-5, 10-12, 19-30 and 45-47 under 35 U.S.C. § 103(a) as being anticipated by Harris. The applicants respectfully traverse these rejections.

Claims 3-5 and 10-12 are allowable at least because they are dependent from allowable base claim 1.

Claim 19 recites eyewear comprising a frame having a brow web. The brow web comprises a plurality of ventilation apertures. The ventilation apertures include a center axis that is substantially sloped with respect to the brow web. Because the apertures are in the brow web, they are between top and bottom surfaces of the brow web. As noted above, the sloping side walls of the cowl of Harris are not between the top and bottom surfaces of the wall member of Harris. For at least this reason claim 19 is allowable.

Claims 20-30 are allowable at least because they are dependent from allowable base claim 19.

Claims 45-47 are canceled.

The examiner has rejected method claims 48-49 as being inherently satisfied by the apparatus of Harris. The applicants respectfully disagree.

Claim 48 recites a method of manufacturing eyewear. The eyewear includes a brow web having a plurality of ventilation apertures. The center axis of each ventilation aperture is substantially sloped with respect to the top surface of the brow web. Because the apertures are in the brow web, they are between top and bottom surfaces of the brow web. As discussed above,

the sloping side walls of the cowl of Harris are not between the top and bottom surfaces of the wall member of Harris. For at least this reason claim 48 is allowable over Harris.

Claim 49 is allowable at least because it is dependent from allowable base claim 48.

#### New Claims

Claims 50-62 are new.

Claim 50 recites eyewear including a frame with at least one ventilation aperture. The eyewear also includes a brow web extending approximately horizontally from a top portion of the frame, and the ventilation aperture extends through the brow web. The brow web includes a top surface that is substantially horizontal while being worn. An angle separating the top surface and the internal side is approximately forty-five degrees or less. The eyewear includes one or more lenses mounted to the frame.

Thus, claim 50 recites some of the features recited in canceled claims 31-33. In addition, claim 50 recites eyewear wherein the brow web includes a top surface that is substantially horizontal when worn. The support for this feature can be found at least on page 3, lines 20-21 of the applicants' specification. No new matter has been added.

New claim 50 is patentably distinguishable from Harris. Claim 50 recites an angle separating the top surface of the brow web and an internal side of the aperture being approximately forty-five degrees or less, whereas, the angle of Harris which was identified by the examiner is between the opening of a cowl and the optical axis of the eye protector. These angles have no relation to each other since they are formed by different parts of different structures. Claim 50 is allowable over Harris for at least this reason.

New claim 50 is patentably distinguishable from Hall et al. The examiner has stated that Hall et al. disclose ventilation apertures that are substantially perpendicular to a wearer's line of sight towards the ventilation aperture. The applicants respectfully disagree with this assertion. Hall et al. does disclose eyewear that includes openings in the browbar. However, Hall et al. do not suggest or disclose an angle for the openings. Hall et al. column 2, lines 5-31. For at least this reason, claim 50 is allowable over Hall et al.

New claim 50 is patentably distinguishable from Matera. Matera describes anti-fogging sports glasses, Matera, Title. The glasses employ substantially vertical apertures. Matera,

paragraph 24, lines 3-4. The vertical apertures are at angle of 70-90° from the horizontal viewing angle. Matera, paragraph 24, lines 9-11. The horizontal viewing angle is directed along a horizontal line extending from the eye through the lenses and out towards the horizon. Matera, Figure 8. Claim 50 is distinguishable from Matera at least because the angle of the aperture is approximately forty-five degrees, which is substantially less than the angle range of 70-90 degrees disclosed by Matera. For at least this reason, claim 50 is allowable over Matera.

Claim 51 is dependent from claim 50 and recites that the angle is approximately forty-five degrees. Support for this feature can be found on page 4, lines 13-23 and Figure 3 of the applicants' specification. Thus, no new matter has been added. Claim 51 is allowable at least because it is dependent from allowable base claim 50.

Claims 52-62 are substantially similar to claims 34-44. No new matter has been added. Claims 52-62 are allowable at least because they are dependent from allowable base claim 50.

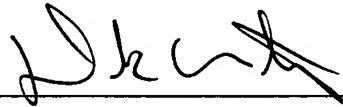
Claim 61 recites eyewear wherein the width of the aperture is substantially equal to a thickness of the brow web. The applicants submit that that claim 61 is distinguishable from Harris, Hall et al. and Matera since they do not suggest or disclose, separately or in combination, any features pertaining to the width of the apertures in relation to the thickness of a brow web. For at least this reason claim 61 is allowable.

In view of the above, the applicants respectfully submit that all of the pending claims are now allowable. Allowance at an early date would be greatly appreciated. Should any issues remain, the examiner is encouraged to telephone the undersigned at (408) 293-9000 to discuss the same so that any outstanding issues may be expeditiously resolved.

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Dated: \_\_\_\_\_

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